

## MEMORANDUM

DATE: October 1, 2021

TO: \*\*\*\*ORIGINAL\*\*\*\*  
City Clerk

FROM: Robyn Holder, CPPB   
Procurement Management Department

SUBJECT: Record Retention

CONTRACT: #20210028  
CONTRACT TITLE: Renovation of Historic Structures at Westmoreland Park

CONTRACTOR NAME: New World Builders, Inc.  
ADDRESS: 426 N. Stone Street  
CITY & STATE: DeLand, Florida 32720-2209

**COUNCIL APPROVED: 9/13/2021 Item No. 7o**

CONTRACT AMOUNT - \$859,135.97  
CONTRACT TERM: 11/1/2021 through 7/29/2022 (270 calendar days), with the option no option to renew.

**CONSTRUCTION AGREEMENT #20210028**

**CITY OF PORT ST. LUCIE**

THIS CONSTRUCTION AGREEMENT (this "Agreement" or "Contract") is made and entered into this 4<sup>th</sup> day of October, 2021, by and between the CITY OF PORT ST. LUCIE, FLORIDA, a municipal corporation, duly organized under the laws of the State of Florida (hereinafter called "City"), and NEW WORLD BUILDERS, INC. (hereinafter called "Contractor" or "Proposer"). The City and the Contractor may hereinafter be referred to each individually as a "party", and collectively as "the parties".

**SECTION I**  
**RECITALS**

In consideration of the below agreements and covenants set forth herein, the parties agree as follows:

**WHEREAS**, Contractor is licensed in the State of Florida; and

**WHEREAS**, the City wishes to contract with a Contractor to provide the Scope of Services and products / services based on the terms and subject to the conditions contained herein; and

**WHEREAS**, Contractor is qualified, willing and able to provide the Scope of Services and products / services specified on the terms and conditions set forth herein; and

**WHEREAS**, the City desires to enter into this Contract with Contractor to perform the Scope of Services and product / services specified and, with a commission amount to be paid as agreed upon below.

**NOW THEREFORE**, in consideration of the premises and the mutual covenants herein name, the Parties agree as follows:

The Recitals set forth above are hereby incorporated into this Contract and made a part of hereof for reference.

**SECTION II**  
**NOTICES**

All notices or other communications hereunder shall be in writing and shall be deemed duly given if delivered in person, sent by certified mail with return receipt request, email or fax and addressed as follows unless written notice of a change of address is given pursuant to the provisions of this Contract.

Contractor: Charles Jordan  
President  
New World Builders, Inc.  
426 N. Stone Street  
DeLand, Florida 32720-4059  
Telephone: 386-868-2209  
E-Mail: [cjordan@new-worldbuilders.com](mailto:cjordan@new-worldbuilders.com)

City's Initials: \_\_\_\_\_

Contractor's Initials: 

Contract #20210028

City Contract Administrator: Robyn Holder  
Procurement Manager  
121 S.W. Port St. Lucie Boulevard  
Port St. Lucie, FL 34984-5099  
Telephone: 772-344-4293  
E-mail: [RHolder@cityofpsl.com](mailto:RHolder@cityofpsl.com)

City Project Manager: Jennifer Davis  
CRA Project Manager  
City of Port St. Lucie  
121 S.W. Port St. Lucie Boulevard  
Port St. Lucie, FL 34952  
Telephone 772-344-4342  
Email: [jdavis@cityofpsl.com](mailto:jdavis@cityofpsl.com)

Project Location: Historic Peacock Lodge  
2410 SE Westmoreland Blvd.  
Port St. Lucie, FL

**SECTION III**  
**DESCRIPTION OF SERVICES TO BE PROVIDED**

1. Subject to the provisions of this Agreement, Contractor shall perform those certain services, and furnish that certain labor and materials as set forth in the Contractor's proposal, which is attached hereto and incorporated herein as **Exhibit A** (the "Work" or "Scope of Work"). The Work shall be performed at the Project Location, of which the City represents and warrants it is the fee simple title owner.

2. Contractor shall perform the Work in reasonable accordance with the provisions and requirements of the Contract Documents. However, to the extent there exists any inconsistency or conflict between any of the Contract Documents, Contractor shall be expressly permitted to, in its sole and absolute discretion, defer to and follow the obligation (or enforce the right) which is most consistent with its standard business practices, as amended from time to time, and as determined in its sole and absolute discretion.

3. Contractor shall, unless excluded in **Exhibit A**, furnish and provide all necessary supervision, management, and labor to perform the Work in a good and workmanlike manner in accordance with the Contract Documents (subject to its discretion reserved above).

4. The term "Contract Documents" refers to and means, exclusively, the following documents as amended and actually received by Contractor to the date hereof, in the following order of precedence:

a. Contractor's Scope of Work attached hereto as **Exhibit A**;

b. The published solicitation documents produced by the City for this Project, as well as the Contractor's written responses thereto;

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Contractor's Initials: 

c. Those certain plan/specifications prepared by Bender & Associates, Architects (the "Design Professional") with a project or identification number of 2002 and a version/revision date of 5/1/2020 (the "Project Drawings"); and

d. Duly executed amendments to the Contract Documents.

5. The City shall provide reasonable access to the Project to the Contractor and its subcontractors, employees, and other personnel throughout the entire duration of the Work during normal working hours, and only as necessary to perform the Work. The Project area shall be both a staging area for its equipment, materials, and laborers (as well as for the delivery and preparation thereof), as well as a secured area in which to park and operate one or more mobile jobsite offices (which may take the form of a 40' motorhome and/or similar vehicle). The surrounding area of the Project shall be fenced off at the Contractor's expense to prevent unauthorized access. The Contractor shall submit bills related to same to the Parks and Recreation Department to be reimbursed as a separate expense from the contract. Reimbursement shall be made promptly in accordance with the Florida 'Local Government Prompt Payment Act', as amended. At such time as any outdoor materials or equipment no longer need to be staged in this area, the Contractor, at its discretion, can arrange to have any perimeter fencing removed accordingly. The Contractor shall place City-designated banners and signage on the mobile jobsite office, as well as the perimeter fence at the Project.

#### **SECTION IV TIME OF PERFORMANCE**

1. Contractor anticipates commencing mobilization of the Work within thirty (30) business days of the last of the following to occur, as applicable:

a. Contractor has received the permit(s) necessary for completion of the Work from the applicable building department having jurisdiction over the Project;

b. Contractor has received all necessary information, selections, and approvals from City and other third parties from whom such items are required in order to commence and complete the Work (including final approval of the Project Documents); and

c. City has issued a 'notice to proceed' to Contractor in written form satisfactory to Contractor, if requested by Contractor or required by City.

2. Allowing for reasonable extensions due to factors such as materials and labor shortages, inclement weather, and other variables, the Contractor anticipates reaching substantial completion of the Work within two hundred seventy (270) calendar days of commencing actual performance of the Work.

3. The parties understand and acknowledge that, given the uncertainties and variables inherent in the performance of the Work, Contractor cannot guarantee or warrant the actual date of commencement or completion of all or any portion of the Work. As such, any date or time for commencement or completion of all or any portion of the Work given by Contractor shall be considered to be a rough estimate only, and not a guarantee or warranty of the same. City shall not rely upon any such estimate in taking action based on this Agreement.

4. The City shall not interfere with, nor shall the City enter upon or permit any person (except for inspections by the City and other authorized personnel) to enter upon the Project site once the Work has commenced. City shall not take any action, nor shall the City refrain from taking required action, which would prevent, delay, or impeded the performance of any portion of the Work.

**SECTION V**  
**RENEWAL OPTION**

There shall be no contract renewals.

**SECTION VI**  
**Financial Arrangements**

1. Subject to adjustment through authorized Change Orders and increases allowable hereunder, the total amount to be paid by the City to the Contractor for the Work is **\$859,135.97** (the "Contract Amount"). The 'Schedule of Values' for the Contract Amount is attached hereto and incorporated herein as **Exhibit B**. Notwithstanding any other provision of this Agreement to the contrary, in no event shall Contractor be required to pay for any impact fees, zoning fees, variance fees, or any other cost, fee, or expense arising from or relating to the City's use, ownership, or occupancy of the Project, or the performance of the Work. The Contractor has made no representation or warranty to the City, and expressly disclaims the same, regarding any maximum cost for materials and labor involved in the Work—it being acknowledged that such costs are currently volatile and therefore highly unpredictable. Payments due under this Agreement. will be disbursed in the following manner:

a. **Progress Payments** – Applications for progress payments may be submitted by Contractor once a month, by the tenth (10th) day of each month for the immediately preceding month's outstanding balance. Applications for payment will be based on percentage of actual completion of the Work to the date thereof, using the Schedule of Values attached hereto as **Exhibit B**, together with any expected or anticipated costs, fees, and expenses to be incurred within the next payment period. Within twenty (20) business days of receiving an application for payment from Contractor, the City shall pay the Contractor in full for the period covered in the application for progress payment, less any applicable retainage. If the City objects to all or any portion of an application for payment, the City must present the grounds for such dispute to the Contractor in writing not later than twenty (20) business days from its receipt of the application for payment. The Contractor may use the 'Application and Certification for Payment' form which is attached hereto as **Exhibit C** in order to make its applications for payment. Retainage of five percent (5%) may be withheld from each progress payment. With each progress payment application, Contractor will submit partial conditional lien releases in the form prescribed by Section 713, *Florida Statutes* from Contractor and all subcontractors and suppliers for materials which were identified in the previous month's invoices for progress payment will be required. If all such releases are not timely provided to the City as set forth herein, the City may, in its sole discretion, withhold further payment until such time as all such releases are received. At no time shall the City be entitled to withhold more than five percent (5%) of the total Contract Amount as retainage.

b. **Acceptance and Final Payment** - Upon receipt of written notice that the Work is ready for final inspection and acceptance, the City will promptly (but in no event later than twenty (20) days

City's Initials: \_\_\_\_\_

Contractor's Initials: 



from receipt of notice) make such inspection. The City shall have twenty (20) days from completion of its inspection to deliver to Contractor a written punch list of portions of the Work (if any) that the City believes to be incomplete. If no such punch list is received by the Contractor, then the Work shall be deemed to be fully complete, accepted, and approved the City, and the City shall make final payment to Contractor (including all retainage withheld) within twenty (20) days of receipt of Contractor's final application for payment. If a punch list is received by Contractor, the Contractor shall have five (5) days to review and either accept or reject responsibility for each item noted therein. If the Contractor rejects responsibility for certain items listed in the punch list, it shall state with reasonable specificity the reason(s) therefor. The City and Contractor shall work together in good faith to resolve any accepted and agreed upon punch list items within a reasonable time thereafter; provided that it shall be an express and absolute condition precedent to the Contractor's obligations to perform such punch list work that all portions of the Contract Amount, less five (5%) retainage, be paid to the Contractor. Once the Work has been fully performed under the requirements of the Contract Documents, the entire balance of the Contract Amount will be due the Contractor and will be paid to the Contractor within twenty (20) days. Time is of the essence with regards to all of the foregoing.

2. The City may, at its option, require the Contractor to submit a final payment affidavit evidencing all subcontractors and suppliers which are owed any sum arising from the Work and engaged by Contractor on the Project. The Contractor shall be required to submit final conditional lien releases for each subcontractor and supplier for whom an outstanding balance is owed. All manufacturers' warranty documents must be provided in the format requested by the City prior to final payment.

3. All invoices, applications for payment, and correspondence related to requests for payment under this Contract must contain the City's Contract number, Purchase Order number (If Applicable), detail of items with prices that correspond to the Contract, a unique invoice number and conditional partial or final releases of lien.

4. Taxes. Contractor is responsible for all federal, state, and local taxes and other charges related to the performance of the Work.

## SECTION VII AUDITS

The Contractor shall maintain books, records and documents in accordance with generally accepted accounting principles and procedures and which sufficiently and properly document and calculate all charges billed to the City throughout the term of the Contract for a period of at least seven (7) years following the date of final payment or completion of any required audit, whichever is later. Records to be maintained include both financial records and service records. The Contractor shall permit the City's authorized auditor or any authorized representative of the State, and where federal funds are involved, the Comptroller General of the United States, or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the Contractor relating to orders, invoices or payments or any other documentation or materials pertaining to the Contract, wherever such records may be located during normal business hours. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records. If an audit discloses incorrect billings or improprieties, the City reserves the right to

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Contractor's Initials: 

charge the Contractor for the cost of the audit and appropriate reimbursement. Evidence of criminal conduct will be turned over to the proper authorities.

**SECTION VIII**  
**CHANGE ORDERS**

1. The term "Change Order" refers to and means a duly authorized amendment to this Agreement or the Contract Documents. Either party may request a modification to this Agreement in writing at any time. If the City requests changes in the nature of additions, deletions, or modifications to the Contract Documents or the Work, the Contractor shall promptly prepare an amendment to this Agreement proposing corresponding adjustments in the Contract Amount, time for completion, and any other provisions of this Agreement which may be impacted by such requested changes. Any and all changes must be authorized by a written Change Order signed by the City's Purchasing Agent or his designee as representing the City. Any adjustment in the Contract Amount resulting in a credit or a charge to the City shall be determined by mutual agreement of the parties before starting the work involved in the change. However, the foregoing shall not apply in the event of emergency circumstances.

2. In the event that Contractor submits a request for Change Order to City, City shall promptly review and respond to the same as soon as is commercially practicable. The completion deadline for the Work shall be tolled for the duration of the City's review of a Change Order, and the parties' negotiation of a Change Order.

3. In the event of an emergency circumstance (as reasonably determined by Contractor in good faith) in which immediate action pertaining to the Work or Project is necessary in order to prevent likely damage or harm to the Project, or possible injury to the public, the Contractor is hereby authorized to act without first securing the written consent of the City, and the Contractor shall be entitled to the reasonable value of its additional work upon submitting an application for payment to the City.

**SECTION IX**  
**CONFORMANCE WITH PROPOSAL**

[intentionally omitted]

**SECTION X**  
**INDEMNIFICATION/HOLD HARMLESS**

Contractor agrees to indemnify, defend and hold harmless, the City, its officers, agents, and employees from, and against any and all claims, actions, liabilities, losses and expenses including, but not limited to, attorney's fees for personal, economic or bodily injury, wrongful death, loss of or damage to property, at law or in equity, which may arise or may be alleged to have risen from the negligent acts, errors, omissions or other wrongful conduct of Contractor, agents, laborers, subcontractors or other personnel entity acting under Contractor control in connection with the Contractor's performance of services under this Contract and to that extent Contractor shall pay such claims and losses and shall pay all such costs and judgments which may issue from any lawsuit arising from such claims and losses including wrongful termination or allegations of discrimination or harassment, and shall pay all costs and attorney's fees expended by the City in defense of such claims and losses including appeals. The aforesaid agreement by Contractor shall apply to all damages

and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations of Contractor or any agent laborers, subcontractors or employee of Contractor regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages. Contractor shall be held responsible for any violation of laws, rules, regulations or ordinances affecting in any way the conduct of all persons engaged in or the materials or methods used by Contractor on the work. This indemnification shall survive the termination of this Contract.

**SECTION XII**  
**SOVEREIGN IMMUNITY**

Nothing contained in this Contract shall be deemed or otherwise interpreted as waiving the City's sovereign immunity protections existing under the laws of the State of Florida, or as increasing the limits of liability as set forth in [Section 768.28, Florida Statutes](#).

**SECTION XII**  
**INSURANCE**

The Contractor shall, on a primary basis and at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverage, limits, including endorsements, as described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by Contractor are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Contractor under the Contract.

The parties agree and recognize that it is not the intent of the City of Port St. Lucie that any insurance policy/coverage that it may obtain pursuant to any provision of this Contract will provide insurance coverage to any entity, corporation, business, person, or organization, other than the City of Port St. Lucie and the City shall not be obligated to provide any insurance coverage other than for the City of Port St. Lucie or extend its sovereign immunity pursuant to Section 768.28, Florida Statutes, under its self-insured program. Any provision contained herein to the contrary shall be considered void and unenforceable by any party. This provision does not apply to any obligation imposed on any other party to obtain insurance coverage for this project, any obligation to name the City of Port St. Lucie as an additional insured under any other insurance policy, or otherwise protect the interests of the City of Port St. Lucie as specified in this Contract.

1. **Workers' Compensation Insurance & Employer's Liability:** The Contractor shall maintain Workers' Compensation Insurance & Employers' Liability in accordance with Section 440, Florida Statutes. Employers' Liability and must include limits of at least \$100,000.00 each accident, \$100,000.00 each disease/employee, \$500,000.00 each disease/maximum. A Waiver of Subrogation endorsement shall be provided. Coverage shall apply on a primary basis. Should the Scope of Work performed by Contractor qualify its employee for benefits under Federal Workers' Compensation Statute (example, U.S. Longshore & Harbor Workers Act or Merchant Marine Act), proof of appropriate Federal Act coverage must be provided.
2. **Commercial General Liability Insurance:** The Contractor shall maintain Commercial General Liability insurance issued under an Occurrence form basis, including Contractual liability, to cover the hold harmless agreement set forth herein, with limits of not less than:

Each occurrence	\$1,000,000
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City's Initials: \_\_\_\_\_

Contractor's Initials: 



Personal/advertising injury	\$1,000,000
Products/completed operations aggregate	\$2,000,000
General aggregate	\$2,000,000
Fire damage	\$100,000 any 1 fire
Medical expense	\$10,000 any 1 person

3. **Additional Insured:** An Additional Insured endorsement must be attached to the certificate of insurance and must include coverage for on-going and Completed Operations (should be ISO CG2037 & CG2010) under the General Liability policy. Products & Completed Operations coverage to be provided for a minimum of five (5) years from the date of possession by City or completion of contract. Coverage is to be written on an occurrence form basis. Coverage shall apply on a primary and non-contributory basis. A per project aggregate limit endorsement should be attached. Defense costs are to be in addition to the limit of liability. A waiver of subrogation shall be provided in favor of the City. Coverage for the hazards of explosion, collapse and underground property damage (XCU) must also be included when applicable to the work performed. No exclusion for mold, silica or respirable dust or bodily injury/property damage arising out of heat, smoke, fumes, or hostile fire shall apply. Coverage shall extend to independent contractors and fellow employees. Contractual Liability is to be included. Coverage is to include a cross liability or severability of interest's provision as provided under the standard ISO form separation of insurers clause.

Except as to Workers' Compensation and Employers' Liability, said Certificate(s) and policies shall clearly state that coverage required by the Contract has been endorsed to include the City of Port St. Lucie, a municipality of the State of Florida, its officers, agents and employees as Additional Insured added to its Commercial General Liability, Business Auto Liability, and Pollution Liability Policies. The name for the Additional Insured endorsement issued by the insurer shall read **"City of Port St. Lucie, a municipality of the State of Florida, its officers, employees and agents and shall include Contract # 20210028 Renovation of Historic Properties Peacock Lodge-Westmoreland Project is listed as additionally insured."** The Policies shall be specifically endorsed to provide thirty (30) day written notice to the City prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. In the event that the statutory liability of the City is amended during the term of this Contract to exceed the above limits, the Contractor shall be required, upon thirty (30) days written notice by the City, to provide coverage at least equal to the amended statutory limit of liability of the City. Copies of the Additional Insured endorsements including Completed Operations coverage shall be attached to the Certificate of Insurance.

4. **Automobile Liability Insurance:** The Contractor shall maintain Business Automobile Liability at a limit of liability not less than \$1,000,000.00 each accident covering any auto, owned, non-owned and hired automobiles. In the event, the Contractor does not own any automobiles; the Business Auto Liability requirement shall be amended allowing Contractor to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form. Certificate holder must be listed as additional insured. A waiver of subrogation shall be provided. Coverage shall apply on a primary non-contributory basis.
5. **Pollution Insurance:** Contractor shall procure and maintain in full force during the term of this Agreement, Pollution Liability Insurance in limits not less than \$1,000,000 per occurrence,

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\$2,000,000 aggregate, for any operations relating to the handling, storage, and transportation of hazardous materials and/or waste. The City of Port St. Lucie shall be listed as an additional insured. A waiver of subrogation shall be provided in favor of the City. Coverage shall apply on a primary and non-contributory basis.

6. **Waiver of Subrogation:** The Contractor shall agree by entering into this Contract to a Waiver of Subrogation for each required policy. When required by the insurer, or should a policy condition not permit an Insured to enter into a pre-loss Contract to waive subrogation without an endorsement then Contractor shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy where a condition to the policy specifically prohibits such an endorsement, or voids coverage should Contractor enter into such a Contract on a pre-loss basis..
  
7. **Deductibles:** All deductible amounts shall be paid for and be the responsibility of the Contractor for any and all claims under this Contract. Where an SIR or deductible exceeds \$5,000, the City of Port St. Lucie reserves the right, but not obligation, to review and request a copy of the bidder's most recent annual report or audited financial statement.

It shall be the responsibility of the Contractor to ensure that all independent contractors and/subcontractors comply with the same insurance requirements as listed herein, including Products & Completed Operations coverage for a minimum of five (5) years from the date of possession by City or completion of contract. It will be the responsibility of the Contractor to obtain Certificates of Insurance from all contractors and subcontractors listing the City as an Additional Insured, without the language when required by written contract. If contractor, independent contractor or subcontractor maintain higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by contractor/independent contractor/subcontractor.


The Contractor may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, or Employers' Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employers' Liability. When required by the insurer, or when Umbrella or Excess Liability is written on Non-Follow Form," the City shall be endorsed as an "Additional Insured."

The City, by and through its Risk Management Department, reserves the right, but not obligation, to review, modify, reject, or accept any required policies of insurance including limits, coverages or endorsements, herein from time to time throughout the term of this contract. All insurance carriers must have an AM Best rating of at least A:VII or better.

A failure on the part of the contractor to execute the contract and/or punctually deliver the required insurance, and other documentation may be cause for annulment of the award.

The City, by and through its Risk Management Department, reserves the right, but not obligation, to review, modify, reject, or accept any required policies of insurance including limits, coverages or endorsements, herein from time to time throughout the term of this contract. All insurance carriers must have an AM Best rating of at least A: VII or better.

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Contractor's Initials: 

A failure on the part of the Contractor to execute the contract and/or punctually deliver the required insurance, and other documentation may be cause for annulment of the contract.

**SECTION XIII**  
**FORCE MAJEURE EVENTS; EMERGENCIES**

1. **Force Majeure Events**. Contractor's performance of the Work may be delayed, prevented, made impracticable, or made cost prohibitive due to unforeseeable and unavoidable delays or circumstances, including, but not limited to, those caused by federal, state or municipal actions, statutes, ordinances or regulations, acts of God, pandemics (including, but not limited to the COVID-19 virus), epidemics, biological risks, public health emergency, state of unrest or emergency, hurricanes, earthquakes, war, terrorism, civil strife, strike, material or labor shortage, increase in the cost of materials or labor, or any act, condition, thing, or circumstance which is either beyond Contractor's reasonable control, is unforeseen or unanticipated by Contractor, or would render Contractor's continued performance impossible, impracticable, or cost ineffective as determined by Contractor in its sole and absolute discretion (each, a "Force Majeure Event", and collectively, "Force Majeure Events"). If a Force Majeure Event occurs, then the parties shall cooperate in good faith to determine what, if any, of the following should occur: (i). a reasonable extension and modification of the terms of this Agreement (including the Contract Amount and schedule); or (ii). suspension or termination of this Agreement or Change Order (as the case may be), in which case City shall be responsible for all actual costs, fees, and expenses actually incurred by Contractor to the date thereof, together with all costs, fees, or expenses to be incurred thereafter which cannot be reasonably avoided by Contractor. Under no circumstances shall Contractor be deemed in breach of this Agreement, or to have abandoned the project in the event of a Force Majeure Event. The parties expressly agree that increases in labor or materials cost are not foreseeable by Contractor. Accordingly, in the event that Contractor experiences any increase in material or labor costs after this Agreement has been executed, Contractor shall be entitled, upon mutual agreement of both parties, to add to the Contract Amount the actual direct cost of such increases upon notice to City and provision of back up documentation.

2. **Emergencies** – In the event of emergencies affecting the safety of persons, the work, or property, at the site or adjacent thereto, the Contractor, or his designee, without special instruction or authorization from the City, is authorized to act to prevent threatened damage, injury or loss. In the event such actions are taken, the Contractor shall be entitled to reimbursement and compensation for the reasonable value of such additional work and services, and shall promptly give to the City written notice of any significant changes in Work or deviations from the Contract Documents caused thereby, and if such action is deemed appropriate by the City a written Change Order signed by the City covering the approved changes and deviations will be issued.

**SECTION XIV**  
**PROHIBITION AGAINST FILING OR MAINTAINING LIENS AND SUITS**

Subject to the laws of the State of Florida and of the United States, neither Contractor nor any Sub-Contractor supplier of materials, laborer or other person shall file or maintain any lien for labor or materials delivered in the performance of this Contract against the City. The right to maintain such lien for any or all of the above parties is hereby expressly waived.

**SECTION XV**

City's Initials: \_\_\_\_\_

Contractor's Initials: 



### COMPLIANCE WITH LAWS

The Contractor shall give all notices required by and shall otherwise comply with all applicable laws, ordinances, and codes and shall, at his own expense, secure and pay the fees and charges for all permits required for the performance of the Contract. All materials furnished and works done are to comply with all federal, state, and local laws and regulations. Contractor will comply with all requirements of [28 C.F.R. § 35.151](#). Contractors and Sub-Contractor, shall comply with [§ 119.0701, Fla. Stat.](#) The Contractor and Sub-Contractor, are to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with this Contract, unless the records are exempt from [Art. I, § 24\(a\), Fla. Const.](#) and [§ 119.07\(1\)\(a\), Fla. Stat. \(2013\)](#). Pursuant to [§ 119.10\(2\)\(a\), Fla. Stat.](#), any person who willfully and knowingly violates any of the provisions of Ch. 119, Laws of Fla., commits a misdemeanor of the first degree, punishable as provided in [§ 775.082](#) and [§ 775.083 Fla. Stat.](#)

### RECORDS

The City of Port St. Lucie is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law. CONTRACTOR'S RESPONSIBILITY FOR COMPLIANCE WITH CHAPTER 119, FLORIDA STATUTES. Pursuant to Section 119.0701, F.S.

Contractor agrees to comply with all public records laws, specifically to:

Keep and maintain public records required by the City in order to perform the service;

1. The timeframes and classifications for records retention requirements must be in accordance with the [General Records Schedule GS1-SL for State and Local Government Agencies](#).
2. During the term of the contract, the Contractor shall maintain all books, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract. The form of all records and reports shall be subject to the approval of the City.
3. Records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business with the City. Contractor's records under this Contract include but are not limited to, supplier/subcontractor invoices and contracts, project documents, meeting notes, emails and all other documentation generated during this Agreement.
4. The Contractor agrees to make available to the City, during normal business hours all books of account, reports and records relating to this contract.
5. A Contractor who fails to provide the public records to the City within a reasonable time may also be subject to penalties under Section 119.10, Florida Statutes.

Upon request from the City's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

Contract #20210028

Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the City.

Upon completion of the contract, transfer, at no cost to the City, all public records in possession of the Contractor, or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records in a format that is compatible with the information technology systems of the City.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**CITY CLERK  
121 SW Port St. Lucie Blvd.  
Port St. Lucie, FL 34984  
(772) 871 5157  
pr@cityofpsl.com  
SECTION XV  
INSPECTION AND CORRECTION OF DEFECTS**

**Deductions** - In the event the City deems it expedient to perform Work which has not been done by the Contractor(s) as required by the Contract Documents, or to correct Work which has been improperly and/or inadequately performed by the Contractor(s) as required by the Contract Documents, and provided that Contractor has failed to do so after receiving notice thereof and a full opportunity to do of not less than thirty (30) days, then all expenses thereafter incurred by the City, in the City's option, will be invoiced to the Contractor(s) and/or may be deducted from payments due to the Contractor(s). Deductions thus made will not excuse the Contractor(s) from other penalties and conditions contained in the Contract.

**SECTION XVI  
SCRUTINIZED COMPANIES**

[Section 287.135, Florida Statutes](https://www.sbafla.com/fsb/Portals/FSB/Content/GlobalGovernanceMandates/QuarterlyReports/Global%20Governance%20Mandates%20and%20Florida%20Statutes%202019%2001%2029.pdf?ver=2019-01-29-130006-790), prohibits agencies from contracting with companies, for goods or services over \$1,000,000 that are on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran petroleum Energy Sector List, or do any business with Cuba or Syria. Both lists are created pursuant to [Section 215.473, Florida Statutes](https://www.sbafla.com/fsb/Portals/FSB/Content/GlobalGovernanceMandates/QuarterlyReports/Global%20Governance%20Mandates%20and%20Florida%20Statutes%202019%2001%2029.pdf?ver=2019-01-29-130006-790) [https://www.sbafla.com/fsb/Portals/FSB/Content/GlobalGovernanceMandates/QuarterlyReports/Global Governance Mandates and Florida%20Statutes 2019 01 29.pdf?ver=2019-01-29-130006-790](https://www.sbafla.com/fsb/Portals/FSB/Content/GlobalGovernanceMandates/QuarterlyReports/Global%20Governance%20Mandates%20and%20Florida%20Statutes%202019%2001%2029.pdf?ver=2019-01-29-130006-790).

City's Initials: \_\_\_\_\_

Contractor's Initials: 



**SECTION XVII**  
**CONTRACT ADMINISTRATION**

1. **Amendments.** The City and the Contractor agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of the Contract. The Contract may be amended in writing from time to time by mutual consent of the parties. All amendments to the Contract must be in writing and fully executed by duly authorized representatives of the City and the Contractor.

2. **Fiscal Year-** All reference to Fiscal Year shall mean the City's Fiscal Year. The City's Fiscal Year is from October 1<sup>st</sup> through September 30<sup>th</sup>.

3. **Integration of Terms.** This Contract represents the entire contract between the parties. The parties shall not rely on any representation that may have been made by either party which is not included in the Contract.

4. **Joint Venture.** Nothing in the Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the vested parties. Each party shall be deemed to be an independent contractor contracting for the services and acting toward the mutual benefits expected to be derived from the mutually agreed upon contract. Neither Contractor nor any of Contractor's agents, employees, subcontractors or contractors shall become or be deemed to become agents, or employees of the City. Contractor shall therefore be responsible for compliance with all laws, rules and regulations involving its employees and any subcontractors, including but not limited to employment of labor, hours of labor, health and safety, working conditions, workers' compensation insurance, and payment of wages. No party has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to the Contract.

5. **Notice(s).** Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in the method and manner prescribed in Section II above. From time to time, the parties may change the name and address of the person designated to receive notice. Such change of the designated person or their designees and/or address shall be in writing to the other party and as provided herein.

6. **Performance by Industry Standards.** The Contractor represents and expressly warrants that all aspects of the Work performed by it shall, at a minimum, conform to the standards in the Contractor's industry. This requirement shall be in addition to any express warranties, representations, and specifications included in the Contract, which shall take precedence

7. **Permits, Licenses, and Certifications.** The Contractor shall be responsible for obtaining all permits, licenses, certifications, etc., required by Federal, State, County, and Municipal laws, regulations, codes, and ordinances for the performance of the Work required by the Contract Documents and to conform therewith. The Contractor shall be required to complete a **W-9 Taxpayer Identification Form**, provided with the City's contract, and return it with the signed contract and insurance documents.

**8. Supersedes Former Contracts or Agreements.** Unless otherwise specified in the Contract, this Contract supersedes all prior contracts or agreements between the City and the Contractor for the Services provided in connection with the Contract.

**9. Use of Name or Intellectual Property.** Contractor agrees it will not use the name or any intellectual property, including but not limited to, City trademarks or logos in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of the City.

**10. Waiver.** Except as specifically provided for in a waiver signed by duly authorized representatives of the City and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach. Each waiver, if mutually agreed upon, shall be published as a contract amendment.

**11. Headings; Interpretation.** The titles of the sections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement. Reference to a "section" means the entire numbered section, and not just the subsection in which such reference is made. Unless the context of this Agreement clearly requires otherwise: (a). references to the plural include the singular, the singular the plural, and the part the whole; (b). references to one gender include both genders; (c). "or" has the inclusive meaning frequently identified with the phrase "and/or"; (d). "including" has the inclusive meaning frequently identified with the phrase "including but not limited to" or "including without limitation"; (e). references to "hereunder," "herein" or "hereof" relate to this Agreement as a whole; and (f). reference to "day" or "days" means calendar days. Any reference in this Agreement to any statute, rule, regulation or agreement, including this Agreement, shall be deemed to include such statute, rule, regulation or agreement as it may be modified, varied, amended or supplemented from time to time. The parties agree that each has participated equally in the drafting of this Agreement. Accordingly, no part of this Agreement is to be presumptively construed either in favor of or against any party. In particular, with respect to the interpretation of this Agreement, the parties waive any benefits from the principles of *contra proferentum* or other principles that would result in the interpretation of any ambiguities against any of them.


**SECTION XVIII**  
**ADDITIONAL REQUIREMENTS**

1. In the event of any conflict between the terms and conditions, appearing on any purchase order issued relative to this Contract, and those contained in this Contract and the Specifications herein referenced, the terms of this Contract and Specifications herein referenced shall apply.

2. **Background Check.** The City requires that a criminal background investigation be made of any and all Contractor personnel utilized to provide Services to the City. Contractor represents and warrants that Contractor shall refrain from assigning personnel to any task under this Contract if such investigation reveals a disregard for the law or other background that indicates an unacceptable security risk as determined by the City.

3. **City's Public Relations Image.** The Contractor's personnel shall at all times handle complaints and any public contact with due regard to the City's relationship with the public. Any personnel in the employ of the Contractor involved in the execution of work that is deemed to be conducting him/herself in an unacceptable manner shall be removed from the project at the request of the City Manager.

City's Initials: \_\_\_\_\_

Contractor's Initials: 

4. **Contractual Relations.** The Contractor(s) are advised that nothing contained in the contract or specifications shall create any contractual relations between the City and Sub-Contractor of the Contractor(s).

5. **Cooperative Purchasing Agreement.** This contract may be expanded to include other governmental agencies provided a cooperative purchasing agreement exists or an inter-local agreement for joint purchasing exists between the City of Port St. Lucie and other public agencies. Contractor(s) may agree to allow other public agencies the same items at the same terms and conditions as this contract, during the period of time that this contract is in effect. Each political entity will be responsible for execution of its own requirements with the Contractor.

6. **Dress Code.** All personnel in the employ of the Contractor(s) shall be appropriately attired. Employees engaged in the course of work shall wear company uniforms neat and clean in appearance, readily identifiable to all City employees and the public. No tee shirts with obscene pictures or writings will be allowed. Swimsuits, tank tops, shorts and sandals are also prohibited. Safety toed shoes shall be worn at all times.

7. **Patent Fees, Royalties, and Licenses.** If the Contractor requires or desires to use any design, trademark, device, material or process covered by letters of patent or copyright, the Contractor and his surety shall indemnify and hold harmless the City from any and all claims for infringement in connection with the work agreed to be performed. The Contractor shall indemnify the City from any cost, expense, royalty or damage which the City may be obligated to pay by reason of any infringement at any time during the prosecution of or after completion of the work.

**Permits.** The Contractor shall be responsible for obtaining all permits, licenses, certifications, etc., required by Federal, State, County, and Municipal laws, regulations, codes, and ordinances for the performance of the Work required in this Agreement. The Contractor shall be required to complete a **W-9 Taxpayer Identification Form**, provided with the City's contract, and return it with the signed contract and insurance documents

8. **Standard Production Items.** All products offered must be standard production items that have been available to the trade for a period of not less than two (2) years and are expected to remain available in future years.


**SECTION XIX**  
**ASSIGNMENT**

Contractor shall not assign this Agreement or any monies due him hereunder without first obtaining the written consent of the City.

**SECTION XX**  
**TERMINATION, DELAYS AND LIQUIDATED DAMAGES**

1. **Termination for Cause by City.** The occurrence of any one or more of the following events shall constitute cause for the City to declare the Contractor in default of its obligations under this Agreement:

City's Initials: \_\_\_\_\_

Contractor's Initials: 

a. After first receiving written notice and an opportunity to cure of not less than fourteen (14) days, the Contractor fails to perform, in accordance with the Contract Documents, any material requirements thereof without excuse, or remains in violation of a material provision of this Agreement, including, but without limitation, the express warranties made by the Contractor herein;

b. In the event the Contractor is required to be certified or licensed as a condition precedent to performing the Work, the revocation or loss of such license or certification may result in immediate termination of the contract effective as of the date on which the license or certification is no longer in effect;

c. The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;

d. If the City determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause the life, health or safety of the public to be jeopardized; or

e. The Contractor furnished any statement, representation or certification in connection with this Agreement, which is materially false, deceptive, incorrect or incomplete.

2. **Notice of Default by City.** If there is a default event caused by the Contractor, the City shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Contractor (but not less than ten (10) days). If the breach or noncompliance is not remedied within the period of time specified in the written notice, the City may:

a. Immediately terminate this Agreement upon written notice to Contractor;

b. Enforce the terms and conditions of this Agreement and seek any legal or reasonable remedies; and/or

c. Procure substitute services from another source and charge the difference between the contract and the substitute contract to the defaulting Contractor.

3. **Termination for Convenience by City.** The City, in its sole discretion, may terminate this Agreement at any time without cause, by providing at least sixty (60) days' prior written notice to Contractor. Any such termination shall be accomplished by delivery in writing of a notice to Contractor. Following termination without cause, the Contractor shall be entitled to compensation upon submission of invoices and proper proof of claim, for Work performed under this Agreement up to the time of termination.

4. **Liquidated Damages.** If material is not provided or work is not completed within the time stipulated in this Contract, including any extensions of time for excusable delays as herein provided, (it being impossible to determine the actual damages occasioned by the delay) the Contractor shall provide to the City one thousand six hundred sixty-five dollars (\$500.00) as fixed, agreed and liquidated damages for each calendar



day of delay until the work is completed. The Contractor and their sureties shall be jointly and severally liable to the City for the amount thereof.

**5. Termination for Cause by Contractor.** The occurrence of any one or more of the following events shall constitute cause for the Contractor to declare the City in default of its obligations under this Agreement:

a. After first receiving written notice and an opportunity to cure of not less than ten (10) days, the City fails to perform, in accordance with the terms of the Agreement, any material requirements hereof without excuse, or remains in violation of a material provision of this Agreement, including, but without limitation, the payment obligations hereunder;

b. The City has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law; or

c. The City furnished any statement, representation or certification in connection with this Agreement, which is materially false, deceptive, incorrect or incomplete.


**6. Payment Due.** Termination of this Agreement, regardless of reason or cause, or by whom it is terminated, shall not relieve City of its obligations to compensate Contractor for sums properly due hereunder.

**7. Excusable Delays.** The right of the Contractor to proceed shall not be terminated nor shall the Contractor be charged with liquidated damages for any delays in the completion of the work or delivery of materials due to: (1) any acts of the Federal Government, including controls or restrictions or requisitioning of materials, equipment, tools or labor by reason of war, national defense or any other national emergency, or any Force Majeure Event, (2) any adverse acts of the City, (3) causes not reasonably foreseeable by the parties at the time of the execution of the Contract that are beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of another Contractor in the performance of some other Contract with the City, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes and weather of unusual severity such as hurricanes, tornadoes, cyclones and other extreme weather conditions, and (4) any delay of any Subcontractor occasioned by any of the above mentioned causes. However, the Contractor must promptly notify the City in writing within seven (7) days of scheduled delivery or scheduled work of the cause of delay. If, on the basis of the facts and the terms of this Contract, the delay is properly excusable the City shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

**SECTION XXI**  
**Bond Requirements**

**1. Payment & Performance Bonds.** The Contractor shall furnish an acceptable recorded Performance and Payment Bond complying with the statutory requirements set forth in Section 255.05, Florida Statutes, in the amount of one hundred (100%) percent of the Contract price. A fully authorized Surety, licensed by the State of Florida shall execute the Performance and Payment Bond. The Performance and Payment Bond shall remain in full force and effect a minimum of one (1) year after the work has been completed and final acceptance of the work is issued by the City.

City's Initials: \_\_\_\_\_

Contractor's Initials: 



2. Should the Surety become non-responsive during the time the Contract is in force, the City may require additional and sufficient sureties and the Contractor shall furnish same to the satisfaction of the City within ten (10) days after written notice to do so. If in default, the City may suspend and/or terminate per the terms of the contract.

3. The failure on the part of the Contractor to execute the Contract and/or punctually deliver the required bonds may be cause for the withdrawal of the award.

**SECTION XXII**  
**LAW, VENUE AND WAIVER OF JURY TRIAL**

This Contract is to be construed as though made in and to be performed in the State of Florida and is to be governed by the laws of Florida in all respects without reference to the laws of any other state or nation. The venue of any action taken to enforce this Contract shall be in St. Lucie County, Florida. The Parties to this Contract hereby freely, voluntarily and expressly, waive their respective rights to trial by jury on any issues so triable after having the opportunity to consult with an attorney.

**SECTION XXIII**  
**APPROPRIATION APPROVAL**

The Contractor acknowledges that the City of Port St Lucie's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. The Contractor agrees that, in the event such appropriation is not forthcoming, this Contract may be terminated by the City and that no charges, penalties or other costs shall be assessed.

**SECTION XXIV**  
**CONFLICT OF INTEREST**

The City hereby acknowledges that the Contractor may be performing professional services for private developers within the Treasure Coast area. Should a conflict of interest arise between providing services to the City and/or other clients, the Contractor shall terminate its relationship with the other client to resolve the conflict of interest. At the time of each Project Proposal the Contractor shall disclose all of its Treasure Coast clients and related Scope of Work.

**SECTION XXV**  
**PUBLIC RECORDS / TRADE SECRETS / COPYRIGHT**

The Proposer's response to the City's proposal request is a public record pursuant to Florida law, which is subject to disclosure by the City under the State of Florida Public Records Law, [Florida Statutes Chapter 119.07](#) ("Public Records Law"). The City shall permit public access to all documents, papers, letters or other material submitted in connection with this City's proposal request and the Contract to be executed as subject to the provisions of Chapter 119.07 of the Florida Statutes.

Any language contained in the Proposer's response to the Solicitation purporting to require confidentiality of any portion of the Proposer's response to the Solicitation, except to the extent that certain information is in the City's opinion a Trade Secret pursuant to Florida law, shall be void. If a Proposer submits any documents

or other information to the City which the Proposer claims is Trade Secret information and exempt from Florida Statutes Chapter 119.07 ("Public Records Laws"), the Proposer shall clearly designate that it is a Trade Secret and that it is asserting that the document or information is exempt. The Proposer must specifically identify the exemption being claimed under Florida Statutes 119.07. The City shall be the final arbiter of whether any information contained in the Proposer's response to the Solicitation constitutes a Trade Secret. The city's determination of whether an exemption applies shall be final, and the Proposer agrees to defend, indemnify, and hold harmless the city and the city's officers, employees, and agent, against any loss or damages incurred by any person or entity as a result of the city's treatment of records as public records. Proposals purporting to be subject to copyright protection in full or in part will be rejected.

**EXCEPT FOR CLEARLY MARKED PORTIONS THAT ARE BONA FIDE TRADE SECRETS PURSUANT TO FLORIDA LAW, DO NOT MARK YOUR RESPONSE TO THE SOLICITATION AS PROPRIETARY OR CONFIDENTIAL. DO NOT MARK YOUR RESPONSE TO THE SOLICITATION OR ANY PART THEREOF AS COPYRIGHTED.**

**SECTION XXVI**  
**PROHIBITION AGAINST CONTINGENT FEES**

The Contractor warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Contract and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Contractor any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

**SECTION XXVII**  
**ATTORNEY'S FEES**

In the event that legal action or arbitration is initiated by a party which arises from or relates in any way to this Agreement, the prevailing party from such action or arbitration shall be entitled to recover its attorney's fees and costs arising from such action or arbitration, together with any fees or costs incurred in determining the amount of fees to be recovered. As used in this section the term "prevailing party" prevailing on the substantial matters of law at issue in such action or arbitration.

**SECTION XXVIII**  
**CODE OF ETHICS**

Contractor warrants and represents that its employees will abide by any applicable provisions of the State of Florida Code of Ethics in [Chapter 112.311 et seq.](#), Florida Statutes, and Code of Ethics Ordinances in [Section 9.14 of the City of Port St. Lucie Code.](#)

**SECTION XXIX**  
**POLICY OF NON-DISCRIMINATION**

Contractor shall not discriminate against any person in its operations, activities or delivery of services under this Contract. Contractor shall affirmatively comply with all applicable provisions of federal, state and local

equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

**SECTION XXX**  
**SEVERABILITY**

The Parties to this Contract expressly agree that it is not their intention to violate any public policy, statutory or common law rules, regulations, or decisions of any governmental or regulatory body. If any provision of this Contract is judicially or administratively interpreted or construed as being in violation of any such policy, rule, regulation, or decision, the provision, sections, sentence, word, clause, or combination thereof causing such violation will be inoperative (and in lieu thereof there will be inserted such provision, section, sentence, word, clause, or combination thereof as may be valid and consistent with the intent of the Parties under this Contract) and the remainder of this Contract, as amended, will remain binding upon the Parties, unless the inoperative provision would cause enforcement of the remainder of this Contract to be inequitable under the circumstances.

**SECTION XXXI**  
**ORDER OF PREFERENCE**

In the case of any inconsistency or conflict among the specific provisions of this Contract (including any amendments accepted by both the City and the Contractor attached hereto), and any other of the Contract Documents, any inconsistency or conflict shall be resolved as follows:

- (i) First, by giving preference to the Scope of Work.
- (ii) Second, by giving preference to the specific provisions of the published solicitation documents produced by the City for this Project, as well as the Contractor's written responses thereto.
- (iii) Third, by giving preference to the Project Drawings.
- (iv) Fourth, by giving preference to Duly executed amendments to the Contract Documents.

**SECTION XXXII**  
**ENTIRE AGREEMENT**

The written terms and provisions of this Contract shall supersede any and all prior verbal or written statements of any official or other representative of the City. Such statements shall not be effective or be construed as entering into, or forming a part of, or altering in any manner whatsoever, this Contract or Contract documents.

*[THIS SPACE INTENTIONALLY LEFT BLANK –  
SIGNATURES APPEAR ON THE FOLLOWING PAGE]*

Contract #20210028

IN WITNESS WHEREOF, the parties have executed this contract, the day and year first above written.

CITY OF PORT ST. LUCIE FLORIDA  
By: Caroline Sturgis  
Purchasing Agent

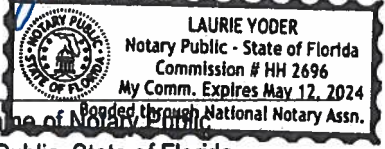
NEW WORLD BUILDERS, INC.  
By: [Signature]  
Authorized Representative

**NOTARIZATION AS TO AUTHORIZED REPRESENTATIVE'S EXECUTION**

STATE OF FLORIDA )  
COUNTY OF Broward )<sup>SS</sup>

The foregoing instrument was acknowledged before me by [  ] physical presence or [  ] online notarization, this 28 day of September, 2021, by Charles [Signature] who is [  ] personally known to me, or who has [  ] produced the following identification:

[Signature]  
Signature of Notary Public



Print Name of Notary Public  
Notary Public, State of Florida  
My Commission expires:

NOTARY SEAL/STAMP

City's Initials: \_\_\_\_\_

Contractor's Initials: [Signature]

**EXHIBIT A**

**CONTRACTOR'S SCOPE OF WORK**

1. Although there are multiple buildings referenced in the Plans and Specifications and reports provided in the project Specifications, the Contractor's Scope of Work is limited to the Historic Peacock Lodge (subject building) only and does not include the adjacent Historic Peacock House, nor the Peacock Barn also referenced in the reports. Accordingly, the Contractor shall, conditional upon the City's performance of its obligations under the Agreement, perform the following:
  - a. Provide restoration of both interior and exterior historic finishes on the subject building.
  - b. Update electrical, mechanical and plumbing systems in the subject building.
  - c. Renovation includes new, ADA compliant ramps, lift and restroom in the subject building.
  - d. Removal of all lead-based paint, asbestos and mold containing materials indicated in the Specifications Introductory Pages Lead Based Paint Report, Mold/Indoor Air Quality Report and Asbestos Survey, for the subject building only. Remedial work is to be performed up to code.
  - e. All renovation must be done in a way to retain the historic look of the structure. This includes application of the US Secretary of the Interior's Standards for Treatment of Historic Buildings.
  - f. Since landscaping is not part of the Scope of the Work, Contractor will simply grade those areas disturbed by the Work to a level similar to its surroundings.
  - g. Work is to be performed according to, and is limited to, those specifications and requirements in Appendix A- Phase 2 Restoration Historic Peacock Lodge, as modified by this Agreement.
  
2. The following is a non-exhaustive list of **exclusions** from this Scope of Work:
  - a. Any work relating to the building to the west of the Historic Peacock House, known as the Historic Peacock House.
  - b. Any remedial or other work to the existing foundation system and its connections to the historic building, including existing concrete footings, stem wall and CMU piers, except for the four (4) piers indicated in Plan Notes 7 and 8, Page S1.2.
  - c. Any structural work to the existing fireplace and chimney.
  - d. Utility connection fees or governmental fees required to complete this project.
  - e. Infrastructure improvements to bring services closer to the historic buildings.
  - f. Landscaping.
  - g. Replication of historic window jambs and sashes, if necessary, since the board-up may conceal damage on the exterior elements of the window system. Window conditions shall be addressed with the Architect upon review of the Schedule of Repairs required in SECTION 08620 RESTORATION OF WOOD WINDOWS, 1.2.1 .
  - h. Repair of damage from vandalism, storm damage or Force Majeure events after bid closing date.
  - i. Contractor's administrative costs involved in securing permits, addressing the City's Building Department concerns in the pre-construction permitting process and attending public meetings involving the project.







**EXHIBIT C**

**SAMPLE APPLICATION AND CERTIFICATION FOR PAYMENT**

<p><b>APPLICATION FOR PAYMENT</b></p> <p>TO OWNER City of Port St. Lucie</p> <p>FROM CONTRACTOR New World Builders, Inc.</p>	<p>PROJECT Historic Peacock Lodge</p> <p>APPLICATION NUMBER PERIOD ENDING CONTRACT NO. 20210028 CONTRACT DATE PREPARED BY Charles M. Jordan</p>	<p><b>CONTRACTOR'S APPLICATION FOR PAYMENT</b> Refer to Schedule of Values attached for detailed breakdown.</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:60%;">1 Original Contract Amount:</td> <td style="width:20%; text-align: right;">\$</td> <td style="width:20%; text-align: right;">859,135.97</td> </tr> <tr> <td>2 Net Changes to Contract:</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">-</td> </tr> <tr> <td>3 Total Contract Amount:</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">859,135.97</td> </tr> <tr> <td>4 Total Completed To Date:</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">-</td> </tr> <tr> <td>5 Retainage:</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">-</td> </tr> <tr> <td>5% of the Completed Work Total Retainage:</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">-</td> </tr> <tr> <td>6 Total Completed Less Retainage:</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">-</td> </tr> <tr> <td>7 Less Previous Applications:</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">-</td> </tr> <tr> <td>8 Current Payment Due:</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">-</td> </tr> <tr> <td>9 Balance to Finish including Retainage:</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">859,135.97</td> </tr> </table>	1 Original Contract Amount:	\$	859,135.97	2 Net Changes to Contract:	\$	-	3 Total Contract Amount:	\$	859,135.97	4 Total Completed To Date:	\$	-	5 Retainage:	\$	-	5% of the Completed Work Total Retainage:	\$	-	6 Total Completed Less Retainage:	\$	-	7 Less Previous Applications:	\$	-	8 Current Payment Due:	\$	-	9 Balance to Finish including Retainage:	\$	859,135.97
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4 Total Completed To Date:	\$	-																														
5 Retainage:	\$	-																														
5% of the Completed Work Total Retainage:	\$	-																														
6 Total Completed Less Retainage:	\$	-																														
7 Less Previous Applications:	\$	-																														
8 Current Payment Due:	\$	-																														
9 Balance to Finish including Retainage:	\$	859,135.97																														
<p><b>CONTRACTOR'S CERTIFICATION</b></p> <p>The undersigned Contractor certifies to the best of the Contractor's knowledge, information and belief that the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid to the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.</p> <p><b>CONTRACTOR</b> New World Builders, Inc. By: Charles M. Jordan, President</p> <p><b>DATE</b> _____</p>																																
<p><b>ARCHITECT'S CERTIFICATE FOR PAYMENT</b></p> <p>The Architect hereby certifies that based on the observations &amp; to the best of the Architect's knowledge, this payment application accurately reflects the progression of work and that this work meets contract requirements sufficient enough to justify payment in the amount certified below.</p> <p style="text-align: right;"><b>AMOUNT CERTIFIED</b></p> <p>Provide explanation below or attached if amount certified does not match this application amount. Initial all figures &amp; markups to agree with certified amount.</p> <p style="text-align: right;"><b>ARCHITECT</b> _____ <b>DATE</b> _____</p> <p>The Amount Certified is payable to the Contractor listed above.</p>																																
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:60%;">EXTRA WORK SUMMARY</th> <th style="width:20%;">ADDITIONS</th> <th style="width:20%;">DELETIONS</th> </tr> </thead> <tbody> <tr> <td>Changes From Previous Applications</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Changes From This Application</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">\$</td> </tr> <tr> <td><b>Total</b></td> <td style="text-align: right;"><b>\$</b></td> <td style="text-align: right;"><b>\$</b></td> </tr> <tr> <td><b>Net Changes</b></td> <td style="text-align: right;"><b>\$</b></td> <td style="text-align: right;"><b>\$</b></td> </tr> </tbody> </table>			EXTRA WORK SUMMARY	ADDITIONS	DELETIONS	Changes From Previous Applications	\$	\$	Changes From This Application	\$	\$	<b>Total</b>	<b>\$</b>	<b>\$</b>	<b>Net Changes</b>	<b>\$</b>	<b>\$</b>															
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<b>Net Changes</b>	<b>\$</b>	<b>\$</b>																														

City's Initials: \_\_\_\_\_

**Exhibit C – Sample Payment Application**

Contractor's Initials:







**EVANSTON INSURANCE COMPANY**  
THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**BLANKET ADDITIONAL INSURED**

This endorsement modifies insurance provided under the following:

- COMMERCIAL GENERAL LIABILITY COVERAGE FORM
- LIQUOR LIABILITY COVERAGE FORM
- OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM
- PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM

**SCHEDULE**

Additional Premium:    \$Included (Check box if fully earned <input type="checkbox"/> )
---

Please refer to each Coverage Form to determine which terms are defined. Words shown in quotations on this endorsement may or may not be defined in all Coverage Forms.

A. Who Is An Insured is amended to include as an additional insured any person or entity to whom you are required by valid written contract or agreement to provide such coverage, but only with respect to "bodily injury", "property damage" (including "bodily injury" and "property damage" included in the "products-completed operations hazard"), and "personal and advertising injury" caused, in whole or in part, by the negligent acts or omissions of the Named Insured and only with respect to any coverage not otherwise excluded in the policy.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. The insurance afforded to such additional insured will not be broader than that which you are required by the valid written contract or agreement to provide for such additional insured.

Our agreement to accept an additional insured provision in a valid written contract or agreement is not an acceptance of any other provisions of such contract or agreement or the contract or agreement in total.

When coverage does not apply for the Named Insured, no coverage or defense will apply for the additional insured.

No coverage applies to such additional insured for injury or damage of any type to any "employee" of the Named Insured or to any obligation of the additional insured to indemnify another because of damages arising out of such injury or damage.

B. With respect to the insurance afforded to these additional insured, the following is added to limits of insurance:

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the valid written contract or agreement; or
2. Available under the applicable limits of insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable limits of insurance shown in the Declarations.

All other terms and conditions remain unchanged.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
09/24/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>State Farm</b> Melba Ballard ,Agent 8471 West Commercial Blvd. Tamarac,FL 33351 P#954-722-3400 F#954-720-5073	<b>CONTACT NAME:</b> Julieann <b>PHONE (A/C, No, Ext):</b> 954-722-3400 <b>E-MAIL ADDRESS:</b> Julieann@melbaballard.com <b>FAX (A/C, No):</b> 954-720-5073																				
	<table border="1"> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A :</td> <td>State Farm Mutual Automobile Insurance Company</td> <td>25178</td> </tr> <tr> <td>INSURER B :</td> <td></td> <td></td> </tr> <tr> <td>INSURER C :</td> <td></td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A :	State Farm Mutual Automobile Insurance Company	25178	INSURER B :			INSURER C :			INSURER D :			INSURER E :			INSURER F :	
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INSURER F :																					
<b>INSURED</b> New World Builders ,Inc. 426 N Stone ST Deland,FL 32720-4059																					

**COVERAGES**                      **CERTIFICATE NUMBER:**                      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	364 6123-E09-59G 1998 Ford F150 1FTZX0766WKA68622	05/09/2021	11/09/2021	COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ 1,000,000 BODILY INJURY (Per accident) \$ 1,000,000 PROPERTY DAMAGE (Per accident) \$ 1,000,000 \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED    RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE    OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
ADDL INSURED "City of Port St. Lucie, a municipality of the State of Florida, its officers, employees and agents and shall include Contract # 20210028 Renovation of Historic Properties Peacock Lodge-Westmoreland Project is listed as additionally insured."

<b>CERTIFICATE HOLDER</b> City of Port St. Lucie 121 SW Port St. Lucie Blvd. Port St. Lucie, Florida 34984	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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# CERTIFICATE OF LIABILITY INSURANCE

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	<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b> New World Builders ,Inc. 426 N Stone ST Deland,FL 32720-4059	<b>INSURER A :</b> State Farm Mutual Automobile Insurance Company	
	<b>INSURER B :</b>	
	<b>INSURER C :</b>	
	<b>INSURER D :</b>	
	<b>INSURER E :</b>	
	<b>INSURER F :</b>	

**COVERAGES**                      **CERTIFICATE NUMBER:**                      **REVISION NUMBER:**

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INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
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	<b>UMBRELLA LIAB</b> <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED    RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
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**CERTIFICATE HOLDER**                      **CANCELLATION**

City of Port St. Lucie 121 SW Port St. Lucie Blvd. Port St. Lucie,Florida 34984	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
---	---



JIMMY PATRONIS  
CHIEF FINANCIAL OFFICER

**STATE OF FLORIDA  
DEPARTMENT OF FINANCIAL SERVICES  
DIVISION OF WORKERS' COMPENSATION**

**\*\* CERTIFICATE OF ELECTION TO BE EXEMPT FROM FLORIDA WORKERS' COMPENSATION LAW \*\***

**CONSTRUCTION INDUSTRY EXEMPTION**

This certifies that the individual listed below has elected to be exempt from Florida Workers' Compensation law.

**EFFECTIVE DATE:** 9/6/2021

**EXPIRATION DATE:** 9/6/2023

**PERSON:** CHARLES M JORDAN

**EMAIL:** CJORDAN@NEW-WORLDBUILDERS.COM

**FEIN:** 650519450

**BUSINESS NAME AND ADDRESS:**

NEW WORLD BUILDERS, INC.

426 N. STONE STREET

DELAND, FL 32720

**SCOPE OF BUSINESS OR TRADE:**

Roofing - All Kinds and  
Drivers

Contractor-Project Manager,  
Construction Executive,  
Construction Manager or  
Construction Superintendent

---

IMPORTANT: Pursuant to subsection 440.05(14), F.S., an officer of a corporation who elects exemption from this chapter by filing a certificate of election under this section may not recover benefits or compensation under this chapter. Pursuant to subsection 440.05(12), F.S., Certificates of election to be exempt issued under subsection (3) shall apply only to the corporate officer named on the notice of election to be exempt and apply only within the scope of the business or trade listed on the notice of election to be exempt. Pursuant to subsection 440.05(13), F.S., notices of election to be exempt and certificates of election to be exempt shall be subject to revocation if, at any time after the filing of the notice or the issuance of the certificate, the person named on the notice or certificate no longer meets the requirements of this section for issuance of a certificate. The department shall revoke a certificate at any time for failure of the person named on the certificate to meet the requirements of this section.



JIMMY PATRONIS  
CHIEF FINANCIAL OFFICER

**STATE OF FLORIDA  
DEPARTMENT OF FINANCIAL SERVICES  
DIVISION OF WORKERS' COMPENSATION**

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**CONSTRUCTION INDUSTRY EXEMPTION**

This certifies that the individual listed below has elected to be exempt from Florida Workers' Compensation law.

**EFFECTIVE DATE:** 9/6/2021

**EXPIRATION DATE:** 9/6/2023

**PERSON:** DONNA A JORDAN

**EMAIL:** CJORDAN@NEW-WORLDBUILDERS.COM

**FEIN:** 650519450

**BUSINESS NAME AND ADDRESS:**

NEW WORLD BUILDERS, INC.

426 N. STONE STREET

DELAND, FL 32720

**SCOPE OF BUSINESS OR TRADE:**

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# AIA® Document A312™ – 2010

## Performance Bond

Bond No. S-335453

**CONTRACTOR:**

*(Name, legal status and address)*

New World Builders, Inc.  
426 N. Stone Street  
DeLand, FL 32720  
386-868-2209

**OWNER:**

*(Name, legal status and address)*

City of Port St. Lucie, Florida 121  
S.W. Port St. Lucie Boulevard  
Port St. Lucie, FL 34984

772-344-4342

**CONSTRUCTION CONTRACT**

Date: October 04, 2021

Amount: \$ Eight Hundred Fifty Nine Thousand One Hundred Thirty Five and 97/100 Dollars (\$859,135.97)

**Description:**

*(Name and location)*

Historic Peacock Lodge  
2410 SE Westmoreland Blvd., Port St. Lucie, FL  
Contract #20210028

**BOND**

Date: October 04, 2021

*(Not earlier than Construction Contract Date)*

Amount: \$ Eight Hundred Fifty Nine Thousand One Hundred Thirty Five and 97/100 Dollars (\$859,135.97)

Modifications to this Bond: X None See Section 16

New World Builders, Inc.

**CONTRACTOR AS PRINCIPAL**

Company: *(Corporate Seal)*

Signature: 

Name and Title: Charles M. Jordan  
President

NGM Insurance Company

**SURETY**

Company: *(Corporate Seal)*

Signature: 

Name and Title: Richard H. Mitchell  
Attorney-in-Fact

*(Any additional signatures appear on the last page of this Performance Bond.)*

*(FOR INFORMATION ONLY — Name, address and telephone)*

**AGENT or BROKER:**

McGriff Insurance Services, Inc.  
2211 7th Avenue South  
Birmingham, AL 35233  
205-252-9871

**OWNER'S REPRESENTATIVE:**

*(Architect, Engineer or other party:)*

Jennifer Davis, CRA Project Manager  
City of Port St. Lucie  
121 S.W. Port St. Lucie Boulevard  
Port St. Lucie, FL 34984  
772-344-4342

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

Init.

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety, and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner, or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

Init.

2



§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

#### § 14 Definitions

§ 14.1 **Balance of the Contract Price.** The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents

§ 14.3 **Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

Int.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

*(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)*

**CONTRACTOR AS PRINCIPAL**

**SURETY**

Company: \_\_\_\_\_ (Corporate Seal)

Company: \_\_\_\_\_ (Corporate Seal)

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

Init.

**Certification of Document's Authenticity**  
**AIA® Document D401™ - 2003**

I, Richard H. Mitchell, Attorney-in-Fact, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification 14:23:34 CT on 09/24/2021 under Order No. 3564650087 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A312™ - 2010, Performance Bond, as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.



---

**Richard H. Mitchell, Attorney-in-Fact**  
*(Title)*

**October 04, 2021**  
*(Dated)*





NGM INSURANCE COMPANY  
A member of The Main Street America Group

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That NGM Insurance Company, a Florida corporation having its principal office in the City of Jacksonville, State of Florida, pursuant to Article IV, Section 2 of the By-Laws of said Company, to wit:

"Article IV, Section 2. The board of directors, the president, any vice president, secretary, or the treasurer shall have the power and authority to appoint attorneys-in-fact and to authorize them to execute on behalf of the company and affix the seal of the company thereto, bonds, recognizances, contracts of indemnity or writings obligatory in the nature of a bond, recognizance or conditional undertaking and to remove any such attorneys-in-fact at any time and revoke the power and authority given to them. "

does hereby make, constitute and appoint **Mark W Edwards II, Jeffrey M Wilson, Robert R Freel, Alisa B Ferris, Richard H Mitchell, Anna Childress, William M. Smith** -----

its true and lawful Attorneys-in-fact, to make, execute, seal and deliver for and on its behalf, and as its act and deed, bonds, undertakings, recognizances, contracts of indemnity, or other writings obligatory in nature of a bond subject to the following limitation:

- 1. No one bond to exceed Twenty Five Million Dollars (\$25,000,000.00)

and to bind NGM Insurance Company thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of NGM Insurance Company; the acts of said Attorney are hereby ratified and confirmed.

This power of attorney is signed and sealed by facsimile under and by the authority of the following resolution adopted by the Directors of NGM Insurance Company at a meeting duly called and held on the 2nd day of December 1977.

Voted: That the signature of any officer authorized by the By-Laws and the company seal may be affixed by facsimile to any power of attorney or special power of attorney or certification of either given for the execution of any bond, undertaking, recognizance or other written obligation in the nature thereof, such signature and seal, when so used being hereby adopted by the company as the original signature of such office and the original seal of the company, to be valid and binding upon the company with the same force and effect as though manually affixed.

IN WITNESS WHEREOF, NGM Insurance Company has caused these presents to be signed by its Vice President, General Counsel and Secretary and its corporate seal to be hereto affixed this 7th day of January, 2020.

NGM INSURANCE COMPANY By:

*Kimberly K. Law*

Kimberly K. Law  
Vice President,  
General Counsel and Secretary

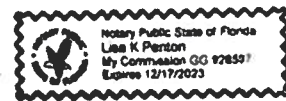


State of Florida,  
County of Duval.

On this 7th day of January, 2020, before the subscriber a Notary Public of State of Florida in and for the County of Duval duly commissioned and qualified, came Kimberly K. Law of NGM Insurance Company, to me personally known to be the officer described herein, and who executed the preceding instrument, and he acknowledged the execution of same, and being by me fully sworn, deposed and said that he is an officer of said Company, aforesaid, that the seal affixed to the preceding instrument is the corporate seal of said Company, and the said corporate seal and her signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Company; that Article IV, Section 2 of the By-Laws of said Company is now in force

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at Jacksonville, Florida this 7th day of January, 2020.

*Lee K. Penton*



I, Nancy Giordano-Ramos, Vice President of NGM Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney executed by said Company which is still in full force and effect  
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Company at Jacksonville, Florida this

4th of October, 2021

*Nancy Giordano-Ramos*

WARNING: Any unauthorized reproduction or alteration of this document is prohibited  
TO CONFIRM VALIDITY of the attached bond please call 1-800-225-5646  
TO SUBMIT A CLAIM: Send all correspondence to: 55 West Street, Keene, NH 03431 Attn: Bond Claims.

 **AIA** Document A312<sup>®</sup> – 2010

**Payment Bond**

Bond No. S-335453

**CONTRACTOR:**  
(Name, legal status and address)

New World Builders, Inc.  
426 N. Stone Street  
DeLand, FL 32720  
386-868-2209

**OWNER:**  
(Name, legal status and address)

City of Port St. Lucie, Florida  
121 S.W. Port St. Lucie Boulevard  
Port St. Lucie, FL 34984  
772-344-4342

**CONSTRUCTION CONTRACT**

Date: October 04, 2021

Amount: \$ Eight Hundred Fifty Nine Thousand One Hundred Thirty Five and 97/100 Dollars (\$859,135.97)

**Description:**

(Name and location)

Historic Peacock Lodge  
2410 SE Westmoreland Blvd., Port St. Lucie, FL  
Contract #20210028

**BOND**

Date: October 04, 2021

(Not earlier than Construction Contract Date)

Amount: \$ Eight Hundred Fifty Nine Thousand One Hundred Thirty Five and 97/100 Dollars (\$859,135.97)

Modifications to this Bond: None X See Section 18

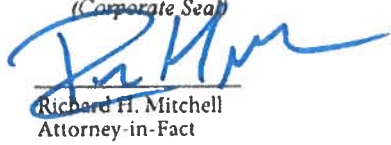
**CONTRACTOR AS PRINCIPAL**

Company: (Corporate Seal)

Signature:   
Name and Title: Charles M. Jordan  
President

**SURETY**

Company: (Corporate Seal)

Signature:   
Name and Title: Richard H. Mitchell  
Attorney-in-Fact

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

(Any additional signatures appear on the last page of this Payment Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

**AGENT or BROKER:**

McGriff Insurance Services, Inc.  
2211 7th Avenue South  
Birmingham, AL 35233  
205-252-9871

**OWNER'S REPRESENTATIVE:**

(Architect, Engineer or other party:)

Jennifer Davis, CRA Project Manager  
City of Port St. Lucie  
121 S.W. Port St. Lucie Boulevard  
Port St. Lucie, FL 34984  
772-344-4342

Init.



§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- 1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- 2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

Init.

**§ 10** The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

**§ 11** The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

**§ 12** No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

**§ 13** Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

**§ 14** When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

**§ 15** Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

#### **§ 16 Definitions**

**§ 16.1 Claim.** A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant,
- .2 the name of the person for whom the labor was done, or materials or equipment furnished,
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract,
- .4 a brief description of the labor, materials or equipment furnished,
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract,
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

**§ 16.2 Claimant.** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

**§ 16.3 Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents

Init.

**§ 16.4 Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

**§ 16.5 Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

**§ 17** If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

**§ 18** Modifications to this bond are as follows:

THE PROVISIONS AND LIMITATIONS OF SECTION 255.05 FLORIDA STATUTES, INCLUDING BUT NOT LIMITED TO THE NOTICE AND TIME LIMITATIONS IN SECTIONS 255.05(2) AND 255.05(10), ARE INCORPORATED IN THIS BOND BY REFERENCE.

*(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)*

**CONTRACTOR AS PRINCIPAL**

Company: \_\_\_\_\_  
Signature: \_\_\_\_\_  
*(Corporate Seal)*

**SURETY**

Company: \_\_\_\_\_  
Signature: \_\_\_\_\_  
*(Corporate Seal)*

Name and Title: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Address: \_\_\_\_\_

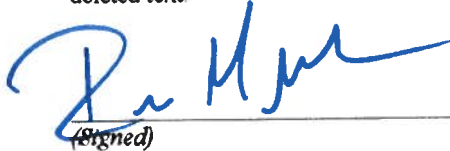
Address: \_\_\_\_\_

Int.

## **Certification of Document's Authenticity**

**AIA® Document D401™ – 2003**

I, Richard H. Mitchell, Attorney-in-Fact, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification 14:20:17 CT on 09/24/2021 under Order No. 3564650087 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A312™ - 2010, Payment Bond, as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.



*(Signed)*

**Richard H. Mitchell, Attorney-in-Fact**

*(Title)*

**October 04, 2021**

*(Dated)*







NGM INSURANCE COMPANY  
A member of The Main Street America Group

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That NGM Insurance Company, a Florida corporation having its principal office in the City of Jacksonville, State of Florida, pursuant to Article IV, Section 2 of the By-Laws of said Company, to wit:

"Article IV, Section 2. The board of directors, the president, any vice president, secretary, or the treasurer shall have the power and authority to appoint attorneys-in-fact and to authorize them to execute on behalf of the company and affix the seal of the company thereto, bonds, recognizances, contracts of indemnity or writings obligatory in the nature of a bond, recognizance or conditional undertaking and to remove any such attorneys-in-fact at any time and revoke the power and authority given to them."

does hereby make, constitute and appoint **Mark W Edwards II, Jeffrey M Wilson, Robert R Freel, Alisa B Ferris, Richard H Mitchell, Anna Childress, William M. Smith** -----

its true and lawful Attorneys-in-fact, to make, execute, seal and deliver for and on its behalf, and as its act and deed, bonds, undertakings, recognizances, contracts of indemnity, or other writings obligatory in nature of a bond subject to the following limitation:

- 1. No one bond to exceed Twenty Five Million Dollars (\$25,000,000.00)

and to bind NGM Insurance Company thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of NGM Insurance Company; the acts of said Attorney are hereby ratified and confirmed.

This power of attorney is signed and sealed by facsimile under and by the authority of the following resolution adopted by the Directors of NGM Insurance Company at a meeting duly called and held on the 2nd day of December 1977.

Voted: That the signature of any officer authorized by the By-Laws and the company seal may be affixed by facsimile to any power of attorney or special power of attorney or certification of either given for the execution of any bond, undertaking, recognizance or other written obligation in the nature thereof, such signature and seal, when so used being hereby adopted by the company as the original signature of such office and the original seal of the company, to be valid and binding upon the company with the same force and effect as though manually affixed.

IN WITNESS WHEREOF, NGM Insurance Company has caused these presents to be signed by its Vice President, General Counsel and Secretary and its corporate seal to be hereto affixed this 7th day of January, 2020.

NGM INSURANCE COMPANY By:

*Kimberly K. Law*

Kimberly K. Law  
Vice President,  
General Counsel and Secretary

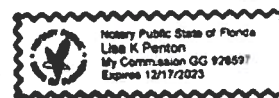


State of Florida,  
County of Duval

On this 7th day of January, 2020, before the subscriber a Notary Public of State of Florida in and for the County of Duval duly commissioned and qualified, came Kimberly K. Law of NGM Insurance Company, to me personally known to be the officer described herein, and who executed the preceding instrument, and he acknowledged the execution of same, and being by me fully sworn, deposed and said that he is an officer of said Company, aforesaid; that the seal affixed to the preceding instrument is the corporate seal of said Company, and the said corporate seal and her signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Company; that Article IV, Section 2 of the By-Laws of said Company is now in force

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at Jacksonville, Florida this 7th day of January, 2020.

*Lisa K. Penton*



I, Nancy Giordano-Ramos, Vice President of NGM Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney executed by said Company which is still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Company at Jacksonville, Florida this

4th of October, 2021

*Nancy Giordano-Ramos*

WARNING: Any unauthorized reproduction or alteration of this document is prohibited.  
TO CONFIRM VALIDITY of the attached bond please call 1-800-225-5646.  
TO SUBMIT A CLAIM: Send all correspondence to 55 West Street, Keene, NH 03431 Attn: Bond Claims.